

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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| UNITED STATES OF AMERICA | : | Criminal No.: 00: CR 1084 |
| v. | : | Filed: October 5, 2000 |
| DIANA D. BROOKS, | : | Violation: 15 U.S.C. § 1 |
| Defendant. | : | |

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INFORMATION

The United States of America, acting through its attorneys, charges:

1. Diana D. Brooks is made a defendant herein.

I.

DESCRIPTION OF THE OFFENSE

2. Beginning at least as early as April 1993 and continuing until at least December 1999, the exact dates being unknown to the United States, the defendant and co-conspirators entered into and participated in a combination and conspiracy to suppress and eliminate competition by fixing auction commission rates charged to sellers (“sellers’ commissions”) in the United States and elsewhere. The combination and conspiracy engaged in by the defendant and co-conspirators was in unreasonable restraint of interstate and foreign trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

3. The charged combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the defendant and co-conspirators, the substantial term of which was to fix sellers’ commissions in the United States and elsewhere.

4. For the purpose of forming and carrying out the charged combination and conspiracy, the defendant and co-conspirators did those things which they combined and conspired to do, including, among other things:

- (a) participating in meetings and conversations in the United States and elsewhere to discuss sellers' commissions;
- (b) agreeing to raise pricing by fixing sellers' commissions;
- (c) agreeing to publish non-negotiable sellers' commission schedules;
- (d) agreeing to the order in which each co-conspirator would publish its non-negotiable sellers' commission schedule;
- (e) issuing sellers' commission schedules in accordance with the agreements reached;
- (f) exchanging customer information for the purpose of monitoring and enforcing adherence to the non-negotiable sellers' commission schedules;
- (g) agreeing not to make interest-free loans on consignments from sellers; and
- (h) not making charitable contributions as part of the pricing to sellers.

II.

BACKGROUND

5. Auction houses generally accept goods on consignment from individuals and entities for sale at auctions. As payment for auction services, auction buyers and sellers make payments to auction houses. The sellers' payments are generally known as sellers' commissions and are a percentage of the sale price of the goods sold at auction houses.

III.

DEFENDANT AND CO-CONSPIRATORS

6. From April 1993 to April 1994, the defendant was president and chief executive officer of Sotheby's, Inc., a corporation organized under the laws of the State of New York with a principal place of business in New York, New York. Sotheby's, Inc., was, among other things, an auctioneer of art, antiques and collectibles.

7. From April 1994 to February 2000, the defendant was also president and chief executive officer of Sotheby's Holdings, Inc., a corporation organized under the laws of the State of Michigan with a principal place of business in New York, New York, and the parent corporation of Sotheby's, Inc. Sotheby's Holdings, Inc. was, among other things, an auctioneer of art, antiques and collectibles.

8. During the period covered by this Information, Sotheby Holdings, Inc.'s revenues from sellers' commissions were in excess of \$225 million in the United States.

9. Various corporations and individuals, not made defendants herein, participated as co-conspirators in the offense charged herein and performed acts and made statements in furtherance thereof.

IV.

TRADE AND COMMERCE

10. During the period covered by this Information, Sotheby's Holdings, Inc. and co-conspirators sold a substantial quantity of goods in a continuous and uninterrupted flow of interstate and foreign trade and commerce to customers located in states or countries other than states and countries in which the auctions were held.

11. During the period covered by this Information the activities of Sotheby's Holdings, Inc. and co-conspirators that are the subject of this Information were within the flow of, and substantially affected, interstate and foreign trade and commerce.

V.

JURISDICTION AND VENUE

12. The aforesaid combination and conspiracy was formed and carried out, in part, within the Southern District of New York within the five years preceding the filing of this Information.

IN VIOLATION OF TITLE 15, UNITED STATES CODE, SECTION 1

“/s/”
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“/s/”
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